IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1483 OF 2002

Baban Maruti Memane .. Appellant
Versus
Bajirao Ganpat Kunjir .. Respondent

Mr.S.M.Railkar for Appellant
Mr.G.S.Godbole for Respondent

CORAM : P.V.KAKADE,J.

DATE : 23rd SEPTEMBER, 2004

P.C.:

1. Heard both sides.

2. Rule. Rule made returnable forthwith. Perused the entire record.

3. In this appeal the order of Addl. District Judge, Pune dated 19th December, 2001 was sought to be impugned which was passed in Misc. Application No.499 of 2001 whereby the application was allowed and Order dated 14th June 2001 passed by the Joint Charity Commissioner, Pune in revision application No.4 of 2001 remanding back the matter to the fresh enquiry was set aside.

4. At the outset' it may be noted that though it is a First Appeal it stands on par the Second Appeal in view of the fact that there are several adjudications by the competent authority including the Addl. District Judge, against the Order of the Joint Charity Commissioner and Dy. Charity Commissioner.

. On perusal of the judgment and order passed by the learned Addl. District Judge vis-a-vis the facts involved shows that the election which was sought to be challenged was held in the year 1994 for which purpose Change Report was filed, which was the subject matter of the dispute. However, thereafter by order of this Court in contempt Petition, fresh election was directed to be held in 1998 for which purpose Change Report was also accepted to the knowledge of the present appellant. In view of this situation the learned Addl. District Judge has observed no purpose would be served by remanding back the matter for fresh inquiry. This observation was also on the basis of the Judgment of this Court in the case of Jagatnarayan Singh Swarupsingh Chithere and Ors. vs. Swarupsingh Education Society and Anr. reported in 1980 Mh.L.J. 372. The observations quoted in the Lower Court Judgement from the Order of this Court is

applicable to the present appeal and therefore, in my view no purpose would be served by allowing the appeal when the body legally and duly elected in the year 1998 elections is working smoothly. It was submitted on behalf of the appellant that there are some allegations against the conduct of the present trustees. However, in my view this aspect cannot be drawn into in this matter, for which purpose the independent remedy is available for the appellant under the relevant provisions of the Bombay Public Trust Act.

5. In the result there is no substantial question of law involved in this appeal and as such appeal deserves to be dismissed and stands dismissed with no order as to costs. Consequently the Civil Application No.2813 of 2003 also stands dismissed.

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